



Michigan Association of District Court Magistrates



September 28, 2010

Mr. Corbin Davis
Clerk, Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

Re: Administrative File No. 2010-16

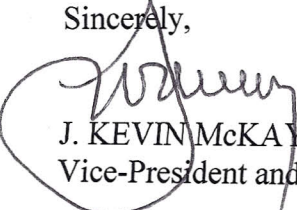
Dear Mr. Davis and Justices of the Court:

I am writing to comment on Administrative File No. 2010-16 on behalf of the Michigan District Court Magistrates Association. These proposed court rule changes were discussed at our association's annual conference last week, and the membership voted to oppose any changes to these court rules as being unnecessary. However, the membership also stated that if the court rules must be changed then the preference would be to require a notice or warning which could be added to the advice of rights form [Alternative B] and not require an affirmative inquiry by the court [Alternative A].

It is our understanding that *Padilla v Kentucky* imposes the burden upon defense counsel to advise their clients of deportation consequences of a guilty plea, and it is not the court's responsibility to make sure that a defense counsel is providing effective assistance of counsel.

To require the trial courts to affirmatively inquire into the content or extent of attorney-client communications [Alternative A] is heading down a slippery slope that should be avoided. In addition, if a notice or warning concerning deportation consequences is required to be given [Alternative B], will that open the door to requiring trial courts to notify all defendants of all the other possible consequences. Thank you for your consideration of our comments.

Sincerely,



J. KEVIN McKAY
Vice-President and President-Elect